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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,145	02/24/2004	Henry Van Acker JR.	1791.007	8182
23405	7590	09/29/2004	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI PC 5 COLUMBIA CIRCLE ALBANY, NY 12203			SOTELO, JESUS D	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/785,145	VAN ACKER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jesús D. Sotelo	3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 11-33 is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) 10 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/24/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____ .                                   |

## **DETAILED ACTION**

1. Claims 1-33 are in the application.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, line 2, there is no proper antecedent for “said escape tower”.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hellman.

Hellman discloses a system for allowing underwater escape from a submarine including a housing having a plurality of walls; a lower escape tower connector located at the bottom of the housing and configured to sealingly attach to a hatch connector 32. the housing is obviously maintained free of water. A hatch 28 is formed in the housing to allow a person to pass therethrough.

***Allowable Subject Matter***

6. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 11-33 are allowed.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Facchin discloses a housing for use in submarine rescue .

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 703-308-2563. The examiner can normally be reached on Mon. - Fri. 6:00 AM -2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3617

*Jesús D. Sotelo  
Jesús D. Sotelo 9/24/04*

***Primary Examiner***

***Art Unit 3617***

CPK 5-6D16 ☺

sotelo;jds  
September 24, 2004